

Hearing Date: February 15, 2018 at 10:30 a.m. (Atlantic Standard Time)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

<p>In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i> Debtors.¹</p>	<p>PROMESA Title III Case No. 17 BK 3283-LTS (Jointly Administered)</p>
<p>In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtor.</p>	<p>PROMESA Title III Case No. 17 BK 4780-LTS Re: ECF No. 658 Relates Only to PREPA and Shall Only Be Filed in Case No. 17 BK 4780-LTS</p>
<p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY,</p>	

¹ The Debtors in the jointly-administered Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (iv) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Movant,

v.

WHITEFISH ENERGY HOLDINGS, LLC, *et al.*²

Respondents,

JOINT STATEMENT REGARDING HEARING ON PREPA FINANCING

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as representative of the Puerto Rico Electric Power Authority in this Title III case pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),³ the Puerto Rico Electric Power Authority (“PREPA”), and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), (AAFAF, PREPA, and the Oversight Board, collectively, the “Movants”) and the Ad Hoc Group of General Obligation Bondholders, U.S. Bank National Association in its Capacity as PREPA Bond Trustee, the Ad Hoc Group of PREPA Bondholders, National Public Finance Guarantee Corporation, Assured Guaranty Corp., Ambac Assurance Corporation, Assured Guaranty Municipal Corp., Knighthead Capital Management LLC and Certain Funds Managed or Advised by It, and Syncora Guarantee Inc. (collectively, the “Objecting Parties”) respectfully submit the following joint statement pursuant to the Court’s Order (Dkt. 658 in 17-04780) directing the parties to identify for purposes of the February 15, 2018 hearing (i) each witness that will be examined, and (ii) the

² The Respondents include: Arc American, Inc., the Ad Hoc Group of General Obligation Bondholders, U.S. Bank National Association in its Capacity as PREPA Bond Trustee, the Ad Hoc Group of PREPA Bondholders, Whitefish Energy Holdings, LLC, Scotiabank de Puerto Rico, Solus Alternative Asset Management LP, National Public Finance Guarantee Corporation, Ambac Assurance Corporation, Assured Guaranty Corp., Assured Guaranty Municipal Corp., Syncora Guarantee Inc., the Official Committee of Unsecured Creditors, and Siemens Transportation Partnership Puerto Rico, S.E.

³ PROMESA is codified at 48 U.S.C. §§ 2101-2241.

order of presentations and witness testimony, including time allocations for each presentation or examination.

I. Witnesses to be Examined

The parties presently intend to call the following witnesses in the order set forth below:

Movants:

- Todd W. Filsinger
- Gerardo Jose Portela Franco
- Dustin Mondell
- Andrew Wolfe (if necessary)

Objecting Parties:

- Stephen J. Spencer

II. Order of Presentations and Witness Testimony, Including Time Allocations

A. Opening Statements

Movants:

Movants (collectively) expect to present opening statements for a total of up to 15 minutes, reserving any unused time for witness examinations and/or closing argument. Opening statements will be made by Martin J. Bienenstock and Joseph P. Davis on behalf of the Movants.

Objecting Parties:

The Objecting Parties respectfully state that the scheduled hearing time should be allocated toward the presentation of evidence and closing arguments rather than opening statements, because any such opening statements have been adequately previewed by the numerous briefs, supplemental briefs, declarations, and supplemental declarations already on file with the Court. Further, given the number of Objecting Parties—as well as the fact that certain

of those parties assert positions adverse to other of those parties⁴—the Objecting Parties are challenged to fully present their respective positions within the scheduled hearing time. The Objecting Parties thus respectfully request that the Court proceed directly to the presentation of evidence, without opening statements.⁵

B. Presentation of Evidence:

As directed by the Court, the parties will submit direct examination testimony by written declaration, all of which have already been filed with the Court as part of the record of this contested matter. Cross-examination (if intended) and redirect examination shall be presented live to the extent permitted by the Court. The Movants reserve the right to present rebuttal testimony. Movants (collectively) and Objecting Parties (collectively) each intend to present cross-examination and redirect testimony within the time limits permitted by the Court's Order dated February 9, 2018 [ECF 658]. The parties currently intend to call the following witnesses in the order set forth below:

Movants:

- Todd W. Filsinger - direct by written declaration; cross-examination expected to take 25 minutes for the PREPA Creditors; redirect examination expected to take 25 minutes.

⁴ Specifically, certain of the Objecting Parties represent the interests of PREPA's creditors (U.S. Bank, the Ad Hoc Group of PREPA Bondholders, National, Assured, Syncora, and Knighthead [collectively, the "PREPA Creditors"]), while other of the Objecting Parties represent different interests (the Ad Hoc Group of General Obligation Bondholders and Ambac [the "Other Creditors"]).

⁵ To the extent the Court allows opening arguments, the Objecting Parties reserve the right to allocate a portion of the time dedicated to closing arguments to opening arguments.

- Gerardo Jose Portela Franco⁶ - direct by written declaration; cross-examination expected to take 25 minutes for the PREPA Creditors; redirect examination expected to take 10 minutes.
- Dustin Mondell - direct by written declaration; cross-examination expected to take 25 minutes for the PREPA Creditors; redirect examination expected to take 30 minutes.
- Andrew Wolfe – the Movants and Objecting Parties have reached a stipulation concerning Dr. Wolfe’s testimony, subject to the Court’s approval and order. If the Court declines to enter the stipulation and order, Movants and the Objecting Parties will reach agreement regarding the treatment of Dr. Wolfe.
- The Other Creditors will allocate 30 minutes of cross-examination between Mr. Filsinger, Mr. Portela Franco, and Mr. Mondell, subject to the same reservation regarding Dr. Wolfe.

Objecting Parties:

- Stephen J. Spencer - direct by written declaration; cross-examination expected to take 45 minutes; redirect examination expected to take 15 minutes for the PREPA Creditors.

Movants:

- Movants reserve the right to present rebuttal testimony expected to take 10 minutes, following the redirect testimony of Stephen J. Spencer.

C. Closing Statements

⁶ Due to a scheduling conflict, Movants reserve the right to call Dustin Mondell prior to Gerardo Jose Portela Franco.

In addition to the examination of witnesses, the parties believe it would be helpful to the Court to hear closing arguments from each side at the conclusion of the evidence. Subject to the Court's approval, Movants (collectively) intend to present closing arguments of 30 minutes plus or minus any time not used or over-used for opening arguments and witness examinations. Subject to the Court's approval, the PREPA Creditors (collectively) intend to present closing arguments of 40 minutes plus or minus any time not used or over-used for witness examinations, while the Other Creditors intend to present closing arguments of 20 minutes plus or minus any time not used or over-used for witness examinations.

Two Objecting Parties have requested additional time allocations for closing arguments only: Arc American (5 minutes) and Whitefish (5 minutes). Given that the PREPA Creditors are already challenged to fully present their arguments in the allocated time, the PREPA Creditors respectfully request that the Court allow additional time to accommodate these two parties, without reducing the time allocated to any of the other parties for argument.⁷

Closing arguments will be made by Martin J. Bienenstock and Kevin D. Finger on behalf of the Movants. The Objecting Parties will identify counsel who will present closing arguments at the hearing.

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⁷ In the event that this request is denied, the PREPA Creditors respectfully request that the Court reduce the time allocated to the PREPA Creditors and Other Creditors equally.

Dated: February 13, 2018
San Juan, Puerto Rico

Respectfully submitted,

/s/ Martin J. Bienenstock

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